

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

Civil Action No. 4:11-CV-00094-BO

BRUCE BANNISTER; MAX DUTTON;
and MARION TOWLES;

Towles,

vs.

WAL-MART STORES EAST, L.P.,

Defendant.

**APPENDIX TO DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT REGARDING MAX
DUTTON'S CLAIMS**

D-7

Declaration of Eric Litchfield Exhibit 7
Email to M. Hunter from E. Litchfield (1/18/2010)

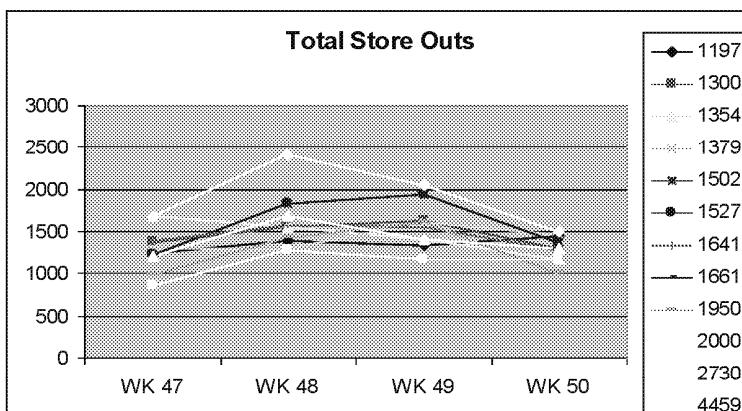
Message

From: Eric Litchfield [/O=WAL-MART/OU=REMOTE OFFICES/CN=RECIPIENTS/CN=ELLITCH]
Sent: 1/18/2010 9:57:31 PM
To: Marlene Hunter [marlene.hunter@wal-mart.com]
Subject: RE: Max Dutton - supporting documents needed
Attachments: Untitled Attachment; MM Out Report DC updates.xls; Untitled Attachment; Weekly Score Card Tracker -- USE THIS ONE.xls

Marlene,

Store 2000 has trended above market average in Out Of Stocks during entire time period of follow-up. 500 outs is goal for a Div 1 store. 1000 is goal for SC. 1950 my only other Div 1 store has been around 1000 outs.

wk 35 wk 36 wk 37 wk 38 WK 39 WK 40 WK 41 WK 42 WK 43 WK 44 WK 45 WK 46 WK 47 WK 48 WK 49 WK 50
Store
2000
1302 1608 2005 2149 2362 2320 1718 1650 1530 2101 1751 1805 1688 2407 2051 1504
Market Average
1213 1268 1265 1328 1290 1329 1235 1145 1156 1214 1191 1148 1234 1556 1540 1286



MM Out Report
DC updates.xls

This is the MM report from FY-10.

Front end: 93 is above company goal.. .

Front End Score Card																	
Store	38	39	40	41	42	43	44	45	46	47	48	49	50				
1197	93.3	94.3	95.4	95.9	96.5	77.7	93.9	94.2	98	92.6	91.3	92.3	95				
1300	94.8	92.8	96.4	94	93	79.9	90.3	88.6	82.1	82.6	91.4	92.5	94				
1354	94.2	95	96.4	94.7	94.9	81.5	90.9	96.6	86.2	81.4	93.3	93.7	95.5				
1379	94.7	94.6	95.4	95.2	91.9	90.8	95.7	91.7	89.9	81.2	94.6	94.2	92.8				
1502	89.9	93.6	96.4	96.1	96.6	90.5	95.4	89.5	91.4	93.2	96.4	95.1	93.4				
1527	94.4	92.8	95.4	90.1	85	81.9	93.4	88.3	84.1	80.2	83.1	89.9	88.6				
1641	97.1	94.5	96.4	96.5	96.3	91	95.2	95.5	96.9	95.1	96.2	96.1	97.2				
1661	93	96.5	96.4	95.4	93.6	81.5	94.5	88.4	79.1	84.2	95.6	96.2	95.6				
1950	95.9	91.8	96.4	91.5	90.9	81.2	96.8	96.9	91.4	90.4	96	94.3	90.3				
2000	78.2	79.7	96.4	89.5	90.8	76.6	88.4	92.5	92.3	90.4	89.8	89.9	88.7				
2730	89.9	88	95.5	93.4	90	72.1	85	83.9	76.6	77.4	85.7	86.5	88				
4459	94.8	93.5	95.3	93.4	92.6	81	93.6	89.1	84.7	91.4	92.7	93.8	94.1				
Mkt	92.3	92.4	94.6	93.6	92.6	83.6	92.8	91.2	86.9	85.3	92.4	92.5	93.2				

Apparel: 90 is company goal. Hit and miss on this card.

Apparel	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
38		69%	56%	64%	74%	74%	71%	73%	88%	81%	25%	56%	47%
39		63%	49%	55%	73%	73%	68%	52%	91%	81%	30%	57%	39%
40		90%	67%	93%	89%	90%	84%	92%	97%	93%	54%	88%	73%
41	81	91%	90%	93%	94%	81%	77%	77%	95%	76%	79%	51%	70%
42	87	92%	78%	92%	91%	94%	90%	94%	93%	96%	67%	72%	79%
43	79	89%	88%	69%	91%	63%	84%	73%	97%	94%	64%	64%	74%
44	86	90%	77%	91%	88%	87%	93%	85%	97%	95%	85%	76%	72%
45	85	92%	95%	96%	93%	77%	87%	75%	97%	70%	84%	90%	60%
46	86	90%	91%	91%	92%	86%	88%	87%	96%	96%	87%	69%	57%
47	84	81%	92%	90%	92%	79%	83%	89%	87%	92%	86%	78%	59%
48	80	93%	78%	94%	94%	52%	78%	72%	94%	99%	73%	76%	61%
49	78	77%	68%	93%	82%	60%	73%	47%	96%	98%	95%	78%	70%
50	78	94%	75%	74%	91%	78%	74%	59%	80%	99%	56%	75%	75%

Electronics: 90 is goal. Exceeded market average and company goal once.

Electronics	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
40		61%	88%	90%	84%	72%	44%	0%	97%	92%	73%	73%	12%
41	86	85%	84%	90%	93%	95%	90%	76%	98%	96%	77%	74%	69%
42	86	92%	80%	93%	83%	95%	91%	89%	98%	95%	80%	73%	67%
43	86	66%	74%	66%	76%	80%	79%	61%	94%	70%	57%	43%	42%
44	86	78%	77%	82%	92%	90%	94%	95%	98%	94%	75%	61%	56%
45	81	73%	65%	91%	90%	93%	92%	90%	98%	94%	58%	76%	51%
46	76	67%	78%	72%	94%	84%	93%	80%	99%	75%	61%	52%	
47	73	65%	76%	76%	91%	80%	92%	73%	90%	73%	57%	47%	51%
48	86	95%	91%	86%	91%	93%	92%	82%	97%	91%	76%	67%	74%
49	80	96%	94%	91%	93%	28%	85%	92%	96%	95%	90%	57%	43%
50	85	94%	93%	92%	95%	92%	91%	79%	98%	91%	70%	62%	59%
51													
52													

IMS Supervisor: Goal is 90.

IMS Sup	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	88	99%	50%	93%	99%	66%	95%	97%	99%	99%	50%	86%	97%
45	82	59%	40%	99%	90%	68%	100%	88%	83%	98%	69%	88%	99%
46	78	50%	46%	100%	99%	48%	76%	97%	99%	100%	50%	69%	98%
47	90	62%	85%	95%	90%	61%	76%	83%	89%	98%	50%	89%	78%
48	76	50%	94%	95%	97%	36%	82%	94%	81%	94%	0%	53%	99%
49	86	97%	86%	98%	69%	49%	70%	97%	88%	99%	36%	93%	88%
50	82	50%	100%	88%	98%	48%	84%	92%	97%	90%	60%	47%	98%
51													
52													

IMS Associate: Goal is 90

IMS Asso	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	91	89%	80%	82%	97%	86%	89%	80%	88%	46%	85%	85%	59%
45	90	98%	86%	95%	97%	75%	72%	80%	97%	86%	80%	61%	46%
46	91	86%	93%	86%	96%	94%	93%	96%	94%	82%	79%	75%	55%
47	97	100%	81%	95%	59%	86%	94%	94%	97%	99%	76%	84%	67%
48	88	90%	95%	79%	94%	96%	93%	93%	68%	86%	82%	79%	41%
49	91	88%	93%	81%	98%	95%	83%	99%	90%	94%	93%	91%	48%
50	93	95%	96%	94%	98%	97%	95%	98%	86%	63%	94%	73%	43%
51													

Day picks: goal is 100%

Day Pick	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	97	100%	93%	83%	94%	100%	100%	100%	99%	100%	97%	96%	92%
45	98	98%	97%	87%	96%	100%	100%	100%	100%	100%	93%	97%	93%
46	97	99%	98%	94%	88%	99%	100%	100%	100%	100%	94%	88%	90%
47	88	95%	95%	74%	83%	95%	96%	74%	88%	97%	74%	72%	80%
48	95	100%	99%	95%	90%	100%	100%	100%	100%	100%	66%	82%	87%
49	97	100%	100%	95%	92%	99%	100%	100%	100%	100%	87%	84%	90%
50	98	100%	100%	96%	97%	99%	100%	100%	100%	99%	86%	97%	97%

Night picks: goal is 100%

Nigh Pick	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	90	100%	42%	100%	96%	100%	100%	98%	100%	99%	98%	81%	100%
45	88	97%	36%	97%	98%	100%	100%	98%	100%	100%	92%	74%	100%
46	87	84%	52%	100%	98%	100%	100%	100%	100%	99%	79%	100%	52%
47	69	73%	55%	72%	71%	73%	74%	70%	84%	85%	50%	72%	64%
48	88	97%	98%	100%	88%	100%	98%	100%	100%	100%	43%	83%	100%
49	97	100%	99%	100%	100%	100%	99%	100%	100%	100%	70%	100%	100%
50	98	98%	97%	100%	97%	100%	100%	99%	95%	100%	100%	100%	88%

Exceptions worked goal 100%

Except	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	86	97%	96%	85%	93%	93%	100%	96%	100%	99%	91%	97%	91%
45	95	90%	98%	89%	91%	98%	100%	94%	100%	99%	94%	95%	93%
46	96	97%	99%	97%	87%	100%	100%	98%	99%	95%	97%	97%	90%
47	81	97%	95%	96%	77%	100%	100%	87%	95%	99%	80%	92%	82%
48	84	98%	100%	89%	80%	99%	100%	97%	100%	94%	78%	93%	88%
49	87	99%	100%	93%	85%	100%	99%	98%	100%	100%	94%	97%	97%
50	87	99%	100%	95%	96%	99%	100%	97%	100%	97%	91%	94%	97%

Dry Grocery/GM stocker goal is 90%.

Dry Food/GM stocker

	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
38		59%	72%	52%	71%	70%	57%	82%	70%	85%	65%	88%	25%
39		69%	62%	66%	84%	75%	74%	92%	86%	86%	77%	64%	29%
40													
41	65	64%	66%	80%	80%	76%	80%	59%	92%	67%	66%	49%	0%
42	68	77%	71%	85%	88%	89%	92%	62%	90%	63%	49%	52%	0%
43	70	47%	74%	92%	73%	76%	82%	50%	93%	71%	63%	53%	*
44	77	77%	81%	89%	91%	81%	87%	70%	87%	73%	65%	51%	*
45	82	95%	77%	84%	87%	87%	90%	91%	85%	66%	79%	59%	*
46	81	88%	75%	85%	82%	84%	89%	94%	85%	61%	80%	63%	*
47	48	65%	51%	58%	53%	46%	63%	49%	53%	31%	62%	45%	0%
48	81	81%	74%	88%	84%	82%	90%	87%	87%	62%	77%	77%	86%
49	84	91%	79%	91%	86%	87%	92%	96%	79%	86%	72%	66%	*
50	82	91%	78%	90%	87%	85%	89%	94%	83%	78%	70%	54%	*

Goal is 90%. 2000 does not

Frozen/Dairy Stocker

	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
38		42%	66%	72%	52%	67%	56%	25%	42%	*	0%	27%	25%
39		62%	66%	69%	63%	78%	76%	38%	49%	*	0%	40%	49%
40													
41	52	61%	60%	72%	69%	75%	69%	37%	75%	0%	*	19%	32%
42	65	60%	61%	61%	61%	74%	83%	64%	78%	*	*	39%	67%
43	64	72%	62%	59%	48%	86%	69%	99%	88%	0%	*	33%	84%
44	55	56%	63%	75%	82%	84%	65%	57%	78%	0%	0%	40%	59%
45	63	51%	66%	85%	82%	89%	66%	100%	82%	0%	17%	43%	70%
46	69	71%	69%	74%	76%	80%	82%	99%	85%	*	0%	38%	87%
47	46	47%	37%	36%	59%	66%	42%	99%	57%	*	0%	41%	23%
48	71	72%	67%	74%	91%	80%	77%	100%	83%	*	0%	41%	99%
49	68	76%	66%	79%	82%	82%	96%	99%	67%	*	0%	32%	70%
50	62	76%	56%	69%	92%	88%	82%	90%	48%	*	0%	32%	50%



Weekly Score
Card Tracker -- ...

Here is the market tracking report.

Eric Litchfield | MM 486

Northeastern NC

843.743.1462

Eric.Litchfield@Wal-Mart.com

Walmart Stores, Inc. Market 486

210 Greenville Blvd.

From: Marlene Hunter
Sent: Monday, January 18, 2010 4:17 PM
To: Eric Litchfield
Subject: Max Dutton - supporting documents needed

Please give me the scorecard actual vs. plan that Max is not meeting.

Specific information on out of stocks mentioned on Pip follow up I need the weekly number broken out for this time period
Mr. Dutton disagrees that he is below expectations on the 1st PIP follow up, I need any supporting document you have that shows Mr. Dutton was below expectations as noted on the PIP follow up dated 1/6/09

Marlene Hunter PHR, Regional Human Resources Director
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marlene.hunter@wal-mart.com

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Saving people money so they can live better.

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